IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	SYKES, Roy, et al.
Application No.	10/825,502
Filed:	April 15, 2004
For:	**METHODS AND SYSTEMS FOR UPDATING WEB PAGES VIA A WEB DATA INSTANT UPDATE UTILITY**
Examiner:	Vy, Hung T.
Group Art Unit:	2163

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Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

APPEAL BRIEF

Sir:

This is an Appeal Brief under 37 C.F.R. § 41.37 in connection with the decision of the Examiner mailed on February 28, 2004. A Notice of Appeal was filed on May 29, 2007 setting the period for filing an Appeal Brief to expire on July 29, 2007. A one-month extension of time is being submitted herewith to extend the period for filing the Appeal Brief up to and including August 29, 2007. Each of the topics required by § 41.37 is presented herewith and is labeled appropriately.

(1) Real Party In Interest

The real party in interest is Citicorp Development Center, Inc.

(2) Related Appeals And Interferences

There are no other appeals or interferences related to this case.

(3) Status of Claims

Claims 1-15 are pending and all have been rejected.

No claims have been canceled.

No claims have been allowed.

No claims have been withdrawn.

Claims 1-15 are hereby appealed.

(4) There are no amendments after final rejection.

(5) Summary Of Claimed Subject Matter

Independent method claim 1 proposes a computer-implemented method for updating web pages on a web server without republishing the web pages which involves providing on a production database server a live version of one or more business data tables containing information used to populate web pages on a production web server (see, e.g., Specification, p. 3, lines 4-8; p. 9, lines 10-21 and Figs. 1-3) and storing in a quality assurance database server a quality assurance version of the one or more business data tables used to populate pages on a quality assurance web server. (see, e.g., Specification, p. 3, lines 8-14; p. 9, lines 10-21 and Figs. 1-3). A maker at a business workstation is allowed to access the quality assurance database server and enter a change to data on the quality assurance version of one or more business data tables. (see, e.g., Specification, p. 3, lines 15-26; p. 9, lines 22-27; p. 12, lines 20-24 and Figs. 1-3). Thereafter, a checker at the business workstation is allowed to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the one or more business data tables (see, e.g., Specification, p. 3, line 27-p. 4, line 4; p. 9, lines 27-29; p. 12, lines 25-28; and Figs. 1-3). If the checker approves the change, the change is replicated to the data on the quality assurance version of the one or more business data tables from the quality assurance database server to the live version of the one or more business data tables on the production database server. (see, e.g., Specification, p. 4, lines 4-9; p. 9, lines 29-32; p. 12, lines 28-32; p. 14, lines 17-212; and Figs. 1-3).

Independent system claim 15 proposes a computer system for updating web pages on a web server without republishing the web pages including, for example, a production database server storing a live version of one or more business data tables containing information used to populate web pages on a production web server (see, e.g., Specification, p. 3, lines 4-8; p. 9, lines 10-21 and Figs. 1-3), and a quality assurance database server coupled to the production database server storing a quality assurance version of the one or more business data tables used to populate pages on a quality assurance web server. (see, e.g., Specification, p. 3, lines 8-14; p. 9, lines 10-21 and Figs. 1-3). A business workstation coupled to the quality assurance database server is adapted for allowing a maker to access the quality assurance database server and enter a change to data on the quality assurance version of the one or more business data tables (see, e.g., Specification, p. 3, lines 15-26; p. 9, lines 22-27; p. 12, lines 20-24 and Figs. 1-3). The business workstation is likewise adapted for thereafter allowing a checker to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the at least one business data table (see, e.g., Specification, p. 3, line 27-p. 4, line 4; p. 9, lines 27-29; p. 12, lines 25-28; and Figs. 1-3). In addition, means are provided for replicating the change to the data on the quality assurance version of the one or more business data tables from the quality assurance database server to the live version of the one or more business data tables on the production database server if the checker approves the change. (see, e.g., Specification, p. 4, lines 4-9; p. 9, lines 29-32; p. 12, lines 28-32; p. 14, lines 17-212; and Figs. 1-3).

(6) Grounds of Rejection to be Reviewed on Appeal

a) Claims 1-15 stand rejected under 35 U.S.C. § 101.

b) Claims 1-3, 7, 9, 12, and 14-15 stand rejected under 35 U.S.C. 102(b) as anticipated by Skok (2002/00911725).

c) Claims 4-6 and 10 stand rejected under 35 U.S.C. §103(a) as obvious over Skok (2002/00911725) in view of Ries (2003/0023632).

d) Claims 8 and 13 stand rejected under 35 U.S.C. §103(a) as obvious over Skok (2002/00911725) in view of Sutherland (2002/0120757).

e) Claim 11 stands rejected under 35 U.S.C. §103(a) as obvious over Skok (2002/00911725) in view of Cochran (2004/0030697).

(7) Argument

The Rejection of Claims 1-15 Under 35 U.S.C. § 101 Is Improper

Claims 1-15 are rejected under 35 U.S.C. 101 because the Examiner considers that the claims are directed to non-statutory subject matter in that according to the Examiner:

> As in claims 1 and 15, *a method for updating web pages on a web server without republishing the web pages* does not produce a useful, and concrete as set forth in 2106(IV)(B)(2)(b)(ii), e.g., *if the checker approves the change, replicating the change to the data on the quality assurance version* is not useful, concrete result because *replicating the change to the data on quality assurance version* is still unknown if the checker does not approve. If the checker approves the change, replicating the changes to the data on the quality assurance version of the at least one business data table is not being available for use in the method for updating pages on the Web server.

Regarding the Examiner's allegation that claims 1 and 15, directed to a computer implemented method and a computer system, respectively, for updating web pages on a web server without republishing the web pages, are directed to non-statutory subject matter under 35 U.S.C. § 101 because the claims do not recite a limitation in which the checker does not approve the change, as provided in MPEP Section 2111.03, Transitional Phrases:

> The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See, e.g., >Mars Inc. v. H.J. Heinz Co., 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004) ("like the term 'comprising,' the terms 'containing' and 'mixture' are open-ended.").< Invitrogen Corp. v. Biocrest Mfg., L.P., 327 F.3d 1364, 1368, 66 USPQ2d 1631, 1634 (Fed. Cir. 2003) ("The transition 'comprising' in a method claim indicates that the claim is open-ended and allows for additional steps."); Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.);

> Moleculon Research Corp. v. CBS, Inc., 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); In re Baxter, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); Ex parte Davis, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts").

Both claims 1 and 15 use the transitional term "comprising", an open-ended term of art that does not exclude, but indeed allows, additional, unrecited elements or method steps. Thus, while the named elements or method steps recited in claims 1 and 15, e.g., of allowing the checker to review and approve or reject the change ... and if the checker approves the change, replicating the change ... are considered to be essential, use of the transitional term "comprising" means that other unspecified elements or method steps, such as a step in which the checker does not approve the change may be added to claims 1 and 15 and still form a construct within the scope of the claim, but such unspecified elements or method steps need not be added.

Regarding the Examiner's allegation that claims 1 and 15 do not produce a "useful" result under "2106(IV)(B)(2)(b)(ii)", it is believed that the reference is to MPEP 2106(IV)(C)(2)((2))(a)), which currently addresses the topic and provides in pertinent part:

> For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107 and *Fisher*, 421 F.3d at 1372, 76 USPQ2d at 1230 (citing the Utility Guidelines with approval for interpretation of "specific" and "substantial").

Each of claims 1 and 15 clearly recites the specific, substantial and credible practical application of updating web pages on a web server without republishing the web pages.

Regarding the Examiner's allegation that claims 1 and 15 do not produce a "concrete" result under "2106(IV)(B)(2)(b)(ii)", it is likewise believed that the reference is to MPEP 2106(IV)(C)(2)((2)(b)) which also provides in pertinent part:

> Another consideration is whether the invention produces a "concrete" result. Usually, this question arises when a result cannot be assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. *In re Swartz*, 232 F.3d 862, 864, 56 USPQ2d 1703,

1704 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is "irreproducible" claim should be rejected under section 101).

It is patently self-apparent that the respective computer-implemented method and computer system of updating web pages on a web server without republishing the web pages as recited in claims 1 and 15 are repeatable without experimentation. It is equally self-apparent that the method and system of updating web pages on a web server without republishing the web pages as recited in claims 1 and 15 respectively produce a concrete result.

Further, the proper test of what constitutes statutory subject matter under 35 U.S.C. 101, as set forth in *Diehr*, is whether the claimed process viewed as a whole recites a practical application with a useful result. *Diehr*, 450 U.S. at 187. Applying the *Diehr* test, the present claims clearly fall within the bounds of statutory subject matter because they achieve a practical and useful result: providing for updating web pages on a website via a web data instant update application that gives businesses a tool for easily updating time critical data, such as news, interest and mortgage rates, on their web sites without having to republish their web sites,

The rejection of claims 1-15 under 35 U.S.C. 101 as directed to non-statutory subject matter is clearly improper.

The Rejection of Claims 1-3, 7, 9, 12, and 14-15 Under 35 U.S.C. 102(b) as Anticipated by Skok (2002/00911725) is Improper

The Examiner alleges that Skok discloses each and every element of claims 1-3, 7, 9, 12, and 14-15. On the contrary, regarding independent method claim 1 and independent system claim 15, Skok fails to teach or suggest one or more limitations recited in claims 1 and 15 in at least the following respects:

- Skok fails to teach or suggest providing on a production database server a live version of at least one business data table containing information used to populate web pages on a production web server and storing in a quality assurance database server a quality assurance version of the at least one business data table used to populate pages

on a quality assurance web server, as recited in claims 1 and 15. On the contrary, Skok merely stores a live version of HTML and attachment portions for web pages in a web server database, and the edits created by a user on an application at the user's browser are simply queued for approval before being copied to the web server database (See, e.g., Skok, pars. 0031, 0068 and Fig. 2).

- Skok fails to teach or suggest allowing a maker at a business workstation to access the quality assurance database server and enter a change to data on the quality assurance version of the at least one business data table. Instead, according to Skok, the web server displays the web page in the user's browser along with an editing application with which the user edits the web page on the web page database, and the edited web page is simply queued for a checker to approve (See, e.g., Skok, par. 0066 and 0068).
- Skok fails to teach or suggest allowing a checker at the business workstation to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the at least one business data table, as recited in claims 1 and 15. On the contrary, instead of a accessing a quality assurance database storing a quality assurance version of the business data table as recited in claim 1 and 15, according to Skok, the checker simply approves the queued web page edits for publishing (See, e.g., Skok, par. 0066).
- Nor is there a hint of teaching or suggestion in Skok of replicating the change to the data on the quality assurance version of the at least one business data table from the quality assurance database server to the live version of the at least one business data table on the production database server if the checker approves the change, as recited in claims 1 and 15. Instead of replicating the change on the quality assurance version from the quality assurance database server to the live version on the production database server, according to Skok, the user's edits are merely copied to the web server if approved (See, e.g., Skok, par. 0031). Replicating is a term of art which is clearly distinguishable from simply copying, altering and republishing, as discussed at length in the Specification, e.g., at p. 6, line 22- p. 7, line 13; and p. 21, lines 11-22; p. 22, lines 17-28. Data replication refers to the process of representing database objects at more than one distinct sites in which a set of replicas is synchronized so that approved

changes made to one replica are dynamically reflected in all the others, which enables many geographically widely distributed users to work with their own local copy of a database but to have the database updated as if they were working on a single, centralized database. Using data replication, the database server implements nearly transparent approved updates of entire database servers. All the data that one database server manages is replicated and dynamically updated with approved changes on the secondary database servers, often at a separate geographical location. On the other hand, when a Web site is copied and altered (especially if the alteration is relatively small) and then republished, it is difficult, if not impossible for a person to distinguish between the original and the copy.

Consequently, Skok fails to teach the required combinations of limitations of Applicants' computer-implemented method and computer system of updating web pages on a web server without republishing the web pages as recited in claims 1 and 15, respectively. Because each and every element as set forth in independent claims 1 and 15 is not found, either expressly or inherently in the cited reference, the Examiner has failed to establish the required *prima facie* case of unpatentability. See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 15 and similarly has failed to establish a *prima facie* case of unpatentability for claims 2, 3, 7, 9, 12, and 14 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the reference.

The Rejection of Claims 4-6 and 10 Under 35 U.S.C. § 103(a) as Obvious Over Skok (2002/00911725) in View of Ries (2003/0023632) is Improper

Regarding claims 4-6 and 10 that depend on independent method claim 1, as previously noted, Skok fails to teach the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages as recited in claim 1 on which claims 4-6 and 10 depend, and Ries fails to remedy the deficiencies of Skok. The proposed modification of Skok in view of Ries lacks

one or more limitations recited in each of claims 4-6 and 10 depending on independent claim 1 in at least the following respects:

- Skok and Ries, separately or in combination with one another, fail to teach or suggest the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages as recited in claims 1 on which claims 4-6 and 10 depend, in which the respective versions of the at least one business data table further comprise one of a text data table and a binary data table as recited in claim 4 depending on claim 1, and / or in which each of the database servers further comprises an SQL database hosted by the respective database server as recited in claim 5, and / or in which the maker at the business workstation is allowed to access the quality assurance database server via a backend database management application as recited in claim 6 depending on claim 1, and/or in which the checker at the business workstation is allowed to access the quality assurance database server via a backend database management application as recited in claim 10 depending on claim 1. On the contrary, Ries merely discloses editing a web page directly on a web server using an editing client that identifies editable areas within the web page using data previously inserted in the web page referred to as "hooks". (See, e.g., Ries, pars. 0021, 0049, 0050, 0056-0058, 0092, 0093, and 0098-0100).

Consequently, Skok and/or Ries, separately or in combination with one another, do not recite the required combinations of limitations of claims 4-6 and 10 depending on independent claim 1. Because each and every element as set forth in claims 4-6 and 10 depending on claim 1 is not found, either expressly or inherently, in Skok and/or Ries, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (C.C.P.A., 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03.

The Rejection of Claims 8 and 13 Under 35 U.S.C. § 103(a) as Obvious Over Skok (2002/00911725) in View of Sutherland (2002/0120757) is Improper

Regarding claims 8 and 13 that depend on independent method claim 1, as already noted, Skok fails to teach the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages as recited in claim 1 on which claims 8 and 13 depend, and Sutherland fails to remedy the deficiencies of Skok. The proposed modification of Skok in view of Sutherland lacks one or more limitations recited in each of claims 8 and 13 depending on independent claim 1 in at least the following respects:

- Skok and Sutherland, separately or in combination with one another, fail to teach or suggest the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages as recited in claim 1 on which cliaims 8 and 13 depend, in which the maker is allowed to designate a time for the change to be accessible on the production web server as recited in claim 8, and /or in which the change of the at least one business data table is replicated from the quality assurance database server to the live version of the at least one business data table on the production database server to be accessible on the production web server at a time designated by the maker as recited in claim 13. Instead, Sutherland discloses nothing more than granting group permissions to specific resources on the Internet via URLs that are valid for a limited time (See, e.g., Sutherland, par. 0074).

Consequently, Skok and/or Sutherland, separately or in combination with one another, do not recite the required combinations of limitations of claims 8 and 13 depending on independent method claim 1. Because each and every element as set forth in claims 8 and 13 depending on claim 1 is not found, either expressly or inherently, in Skok and/or Sutherland, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (C.C.P.A., 1974) (holding that a *prima*

facie case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03.

The Rejection of Claim 11 Under 35 U.S.C. § 103(a) as Obvious Over Skok (2002/00911725) in View of Cochran (2004/0030697) is Improper

Regarding claim 11 that depends on independent method claim 1, as noted above, Skok fails to teach the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages, and Cochran fails to remedy the deficiencies of Skok. The proposed modification of Skok in view of Cochran lacks one or more limitations recited in claim 11 depending on independent claim 1 in at least the following respects:

- Skok and Cochran, separately or in combination with one another, fail to teach or suggest the required combinations of limitations of Applicants' computer-implemented method of updating web pages on a web server without republishing the web pages as recited in claim 1 on which claim 11 depends, in which the checker is allowed to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the business data table using a web browser on a business workstation as recited in claim 11. Rather, Cochran discloses nothing more than adding feedback functionality to an online content management system without altering the stored online content in which user comments are stored at a server or in a database (See, e.g., Cochran, par. 0054).

Consequently, Skok and/or Cochran, separately or in combination with one another, do not recite the required combinations of limitations of claims 11 depending on independent method claim 1. Because each and every element as set forth in claims 11 depending on claim 1 is not found, either expressly or inherently, in Skok and/or Cochran, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (C.C.P.A., 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03.

(8) Conclusion

For at least the reasons given above, the rejections of claims 1-15 are improper. Applicants respectfully request that the final rejection by the Examiner be reversed and that claims 1-15 be allowed. Attached below is an Appendix of claims 1-15 for ease of reference.

Respectfully submitted,

Date: 8/29/07

By: George T. Marcou 33014 for
John M. Harrington (Reg. No. 25,592)

KILPATRICK STOCKTON LLP
607 14th Street, NW, Suite 900
Washington, DC 20005
(202) 508-5800

(9) Claims Appendix

1. A computer-implemented method for updating web pages on a web server without republishing the web pages, comprising:

providing on a production database server a live version of at least one business data table containing information used to populate web pages on a production web server;

storing in a quality assurance database server a quality assurance version of the at least one business data table used to populate pages on a quality assurance web server;

allowing a maker at a business workstation to access the quality assurance database server and enter a change to data on the quality assurance version of the at least one business data table;

allowing a checker at the business workstation to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the at least one business data table; and

if the checker approves the change, replicating the change to the data on the quality assurance version of the at least one business data table from the quality assurance database server to the live version of the at least one business data table on the production database server.

2. The method of claim 1, wherein providing the live version of the business data table further comprises providing on the production database server the live version of the business data table containing information used to populate web pages on the production web server accessible via a browser on a customer workstation.

3. The method of claim 1, wherein storing the quality assurance version of the business data table further comprises storing the quality assurance version of the business data table used to populate pages on the quality assurance web server accessible via a browser on a business workstation.

4. The method of claim 1, wherein the respective versions of the at least one business data table further comprise one of a text data table and a binary data table.

5. The method of claim 1, wherein each of the database servers further comprises an SQL database hosted by the respective database server.

6. The method of claim 1, wherein allowing the maker to access the quality assurance database server further comprises allowing the maker at the business workstation to access the quality assurance database server via a backend database management application.

7. The method of claim 1, wherein allowing the maker to access the quality assurance database server and enter the change to the data further comprises allowing the maker to access the quality assurance database server and enter the change to the data on the quality assurance version of the business data table using a browser on a business workstation.

8. The method of claim 1, wherein allowing the maker to enter the change to the data on the quality assurance version of the at least one business data table further comprises allowing the maker to designate a time for the change to be accessible on the production web server.

9. The method of claim 1, wherein allowing the maker to enter the change to the data on the quality assurance version of the at least one business data table further comprises allowing the maker to enter a change to the data consisting of at least one of adding a business data table, deleting the business data table, adding at least one row to the business data table, deleting at least one row of the business data table, adding at least one column to the business data table, deleting at least one column of the business data table, modifying content of at least one row of the business data table, and modifying content of at least one column of the business data table.

10. The method of claim 1, wherein allowing the checker at the business workstation to access the quality assurance database server further comprises allowing the checker at the

business workstation to access the quality assurance database server via a backend database management application.

11. The method of claim 1, wherein allowing the checker at the business workstation to access the quality assurance database server to review and approve or reject the change further comprises allowing the checker to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the business data table using a web browser on a business workstation.

12. The method of claim 1, wherein allowing the checker to review the change further comprises displaying for the checker at a business workstation via the quality assurance web server a web page populated by the at least one business data table in which the data is changed.

13. The method of claim 1, wherein replicating the change to the live version of the at least one business data table on the production database server further comprises replicating the change of the at least one business data table from the quality assurance database server to the live version of the at least one business data table on the production database server to be accessible on the production web server at a time designated by the maker

14. The method of claim 1, wherein the respective web servers are coupled to one another via one of a global network and an intranet.

15. A computer system for updating web pages on a web server without republishing the web pages, comprising:

a production database server storing a live version of at least one business data table containing information used to populate web pages on a production web server;

a quality assurance database server coupled to the production database server storing a quality assurance version of the at least one business data table used to populate pages on a quality assurance web server;

a business workstation coupled to the quality assurance database server adapted for allowing a maker to access the quality assurance database server and enter a change to data on the quality assurance version of the at least one business data table;

the business workstation being further adapted for allowing a checker to access the quality assurance database server to review and approve or reject the change to the data on the quality assurance version of the at least one business data table; and

means for replicating the change to the data on the quality assurance version of the at least one business data table from the quality assurance database server to the live version of the at least one business data table on the production database server if the checker approves the change.

(10) Evidence Appendix

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 and no other evidence entered by the examiner and relied on by appellant in the appeal.

(11) Related Proceedings Appendix

There are no other decisions rendered by a court or the Board in any other appeals or interferences related to this case.